IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,)	
Plaintiff,)	
vs.)	Cr. No. 05-1849 JH
DANA JARVIS, et al.,)	
Defendants.)	

UNITED STATES' MOTION FOR LEAVE TO FILE SURREPLY RE: "DEFENDANTS' JOINT MOTION TO DISMISS COUNT 3 OR IN THE ALTERNATIVE FOR A BILL OF PARTICULARS"

COMES NOW the United States of America, by and through David C. Iglesias, United States Attorney for the District of New Mexico, and James R.W. Braun, Assistant United States Attorney for said District, and hereby moves the court for leave to file a surreply re: "Defendants' Joint Motion to Dismiss Count 3 or in the Alternative for a Bill of Particulars" (Doc. 710), and in support thereof states:

- 1. On October 20, 2006, the defendants jointly filed their "Motion to Dismiss Count 3 or in the Alternative for a Bill of Particulars." The United States filed a timely response to the motion and thereafter the defendants filed a timely reply to the United States' response.
- 2. In their reply, the defendants cite to the United States Supreme Court's recent decision in *United States v. Resendiz-Ponce*, 127 S.Ct. 782 (January 9, 2007). As this

case was decided after the United States filed its response, the United States should be allowed to file a surreply to address the new arguments made in the defendants' reply.

- 3. The United States has drafted a surreply, which is attached hereto for the court's review.
- 4. Jody Neal-Post, counsel on the defendants' joint motion, was contacted and does not oppose this motion.

WHEREFORE, the United States requests leave of the court to file the surreply attached hereto.

Respectfully submitted,

DAVID C. IGLESIAS United States Attorney

/s/ James R.W. Braun

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 12th day of February, 2007, I filed the foregoing pleading electronically through the CM/ECF system, which caused counsel of record for the defendants to be served by electronic means.

/s/ James R.W. Braun

JAMES R.W. BRAUN Assistant U.S. Attorney